APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,909	11/18/1999	DOUGLAS GEORGE MURRAY	EN999088	6548

			EXAMINER
30400	7590	08/24/2005	BLACK, LINH

HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY, NY 12203

ART UNIT	PAPER NUMBER
2167	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/442,909	MURRAY, DOUGLAS GEORGE
	Examiner	Art Unit
	LINH BLACK	2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 May 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24, 26-47, 49-67, 69 and 70* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24, 26-47, 49-67, 69-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This communication is in response to the amendment dated 5/31/05. Claims 25,

48, and 68 are cancelled. Claims 1, 15, 28-30, 41, 51, and 61 are independent

claims. Claims 1-24, 26-47, 49-67, 69-70 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 9-20, 22-24, 26-36, 38-46, 49-57, 59-66, 69-70 are rejected

under 35 U.S.C. 103(a) as being unpatentable over Matheny et al (USP

6259446), and further in view of Ciccone, Jr. et al. (US 6338149).

1. As per claim 1, Matheny et al. teach

Merriam-Webster's Collegiate Dictionary – Ten Edition defines

dictionary as "a list (as of items of data or words) stored in a computer for

reference (as for information retrieval or word processing)".

providing a dictionary file data structure having a plurality of unique inquiries for

ascertaining state information on at least one computer system – col. 1, line 30 to

col. 2, line 6; fig. 12, elements 1200-1290.

said plurality of unique inquiries being organized into at least one subject group,

each subject group being directed to a different piece of said state information –

col. 20, lines 25-43.

at least one group of said at least one subject group having multiple records of

inquiry; processing at least one inquiry of said plurality of inquiries of said

dictionary file to accumulate said state information, said processing comprising

for each group of said at least one group having multiple unique records of

inquiry – col. 1, line 30 to col. 2, line 6; fig. 12, elements 1200-1290.

processing a record of said multiple unique records of inquiry, and if a condition

of said record is satisfied then terminating processing of said group, otherwise

processing a next record of said multiple unique records of inquiry and continuing

until a condition of one record of said multiple records of inquiry is satisfied or all

records of said multiple records of inquiry of said group have been processed –

col. 1, line 59 to col. 2, line 6; fig. 12; col. 35, line 64 to col. 36, line 3. Matheny et

al. also teach network and remote machine – col. 6, lines 43-57.

However, Matheny et al. do not explicitly disclose "a central location".

Ciccone, Jr. et al. further improve the Matheny et al.'s limitation of "said plurality

of unique inquiries being organized into at least one subject group, each subject

group being directed to a different piece of said state information" by teaching

change monitoring system for a computer system – the title. Ciccone, Jr. et al.

teach a system employs a "template" concept to monitor platforms, products...

The templates for the products list all of the objects included in that product.

Examples of objects (and their attributes) are platform, files, processes, disk

storage – col. 3, lines 39-67; state check list – col. 14, lines 3-27. Ciccone, Jr. et

al. teach the system 2 preferably employs a client-server architecture, and the

monitoring node 22 periodically checks the platforms and products of the

computer system 4 to determine whether they match the stored templates...,

also the central help facility – col. 3, lines 27-67; computer systems - col. 2, lines

39-66. Thus, it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine Ciccone, Jr. et al.'s teaching with Matheny et

al.'s teaching in order allow the monitoring of different objects efficiently.

2. As per claim 2, Matheny et al. do not explicitly teach wherein said <u>at least one</u>
   <u>subject group</u> comprises <u>multiple subject groups.</u> However, Ciccone, Jr. et al.
   teach at least one subject group comprises multiple subject groups - col. 3,
   lines 39-67; col. 14, lines 3-27.

3. As per claim 3, Matheny et al. teach wherein multiple inquiries of said plurality
   of instructions, each instruction condition of said instruction inquiries comprise
   providing a result when a is satisfied - col. 1, line 45 to col. 2, line 6.

4. As per claims 4-5, Matheny et al. teach collecting results of said instructions

into a file, said file being representative of said state of said computer system;

wherein each inquiry of said plurality of inquiries is an instruction which

provides a result when a condition of said instruction is satisfied - fig. 12; col.

17, lines 9-55; col. 23, lines 5-49.

5. As per claims 6-7, Matheny et al. teach

transferring said file to an information repository coupled to said computer

system across a network; wherein said computer system comprises one

computer system of a plurality of computer systems coupled to said network -

col. 6, lines 43-51; fig. 12, elements 1230-1290; col. 7, lines 31-41.

6. As per claim 9, Matheny et al. teach wherein at least one record of inquiry of

said multiple records of inquiry comprises an instruction which provides a

result when a condition of said instruction is satisfied, said result comprising

state information for said group having said record when the condition of said

instruction is satisfied - col. 1, lines 59-65; fig. 12; col. 23, lines 26-49; col. 27,

lines 1-5.

7. As per claims 10-11, Matheny et al. teach

one computer system within a network of computer systems, and wherein said

providing comprises reading said dictionary file from a server coupled to said

network to said one computer system to gather said state information thereon –

col. 6, lines 43-51; fig. 12, elements 1230-1290.

8.   As per claim 12, Matheny et al. teach processing each group of said at least

one subject group, and setting group substitution variables for output upon

initiation of processing of each group of said at least one subject group – col.

1, line 30 to col. 2, line 6; col. 23, lines 18-25.

9.   As per claim 13, Matheny et al. teach wherein said multiple inquiry types

comprise at least two of: a file check inquiry, a file content check inquiry, an

external process check inquiry, or a default inquiry for said group - col. 17,

line 9 to col. 18, line 5.

10. As per claim 14, Matheny et al. teach a file inquiry which checks for

existence of a file of a certain date, time or size and which can return file

information ... - the abstract; col. 1, lines 30-45; col. 6, lines 17-32.

11. Claims 8, 21, 37, 47, 58, 67 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Matheny et al. (USP 6259446), Ciccone, Jr. et al. (US

6338149), and further in view of Datig (US 6233545).

12. As per claims 8, 21, 37, 47, 58, 67, Matheny et al. and Ciccone, Jr. et al. do

not explicitly suggest wherein said dictionary file comprises a rules database

in an ASCII file. However, Datig teach instruction sets built into the

procedures of the rule sets and databases that operate on ASCII operating

schemes – col. 408, lines 5-8. Thus, it would have been obvious to one of

ordinary skill in the art at the time of the invention to allow rule sets/database

to be in ASCII file in order for system status checks processed efficiently.

13. Claims 29-40, 51-60 claims the same subject matters as of claims 1-14, are

rejected based on the same ground of rejection.

14. Matheny anticipated the independent claims 15, 28, 41, and 61 by the

following:

providing a dictionary file data structure having a plurality of unique inquiries for

ascertaining state information on at least one computer system – col. 1, line 30 to

col. 2, line 6; fig. 12, elements 1200-1290.

at least one inquiry of said plurality of unique inquiries within the dictionary file

data structure comprising an instruction having a result which is automatically

output when a condition of said instruction is satisfied, each result being

predefined in said dictionary file data structure - col. 1, lines 59-65; col. 23, lines

26-66; col. 27, lines 1-5.

wherein said plurality of inquiries comprise at least one of a file check inquiry, a

file content check inquiry, an external process check inquiry, or a default inquiry –

col. 17, line 9 to col. 18, line 5.

processing at least one inquiry of said dictionary file to accumulate said state

information - col. 35, line 64 to col. 36, line 3; col. 32, lines 25-32.

processing at least one inquiry ...at least one instruction – col. 1, line 59 to col. 2, line 6; col. 35, line 64 to col. 36, line 3; col. 32, lines 7-32. Matheny et al. also teach network and remote machine – col. 6, lines 43-57.

However, Matheny et al. do not explicitly disclose "a central location". Ciccone, Jr. et al. further improve the Matheny et al.'s limitation of "said plurality of unique inquiries being organized into at least one subject group, each subject group being directed to a different piece of said state information" by teaching change monitoring system for a computer system – the title. Ciccone, Jr. et al. teach a system employs a "template" concept to monitor platforms, products... The templates for the products list all of the objects included in that product. Examples of objects (and their attributes) are platform, files, processes, disk storage – col. 3, lines 39-67; state check list – col. 14, lines 3-27. Ciccone, Jr. et al. teach the system 2 preferably employs a client-server architecture, and the monitoring node 22 periodically checks the platforms and products of the computer system 4 to determine whether they match the stored templates..., also the central help facility – col. 3, lines 27-67; computer systems - col. 2, lines 39-66. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ciccone, Jr. et al.'s teaching with Matheny et al.'s teaching in order allow the monitoring of different objects efficiently.

15. Matheny anticipated the independent claims 16, 42, 62 by the following:

wherein said at least one inquiry comprising said instruction comprises multiple

inquiries of said plurality of inquiries, each instruction having a result which is

output when a condition of said instruction is satisfied – col. 1, line 45 to col. 2,

line 6.

16. Matheny anticipated the independent claims 17-18, 43-44, 63-64 by the

following:

collecting results of said instructions into a file, said file being representative of

said state of the computer system; wherein each inquiry of said plurality of

inquiries is an instruction which provides a result when a condition of said

instruction is satisfied – fig. 12; col. 17, lines 9-55; col. 23, lines 5-49.

17. Matheny anticipated the independent claims 19-20, 45-46, 65-66 by the

following:

transferring said file to an information repository coupled to said computer

system across a network; wherein said computer system comprises one

computer system of a plurality of computer systems coupled to said network -

col. 6, lines 43-51; fig. 12, elements 1230-1290; col. 7, lines 31-41.

18. Matheny anticipated the independent claims 22-24 by the following:

one computer system within a network of computer systems, and wherein said

providing comprises reading said dictionary file from a server coupled to said

network to said one computer system to gather said state information thereon –

col. 6, lines 43-51; fig. 12, elements 1230-1290.

19. Matheny anticipated the independent claims 26, 49, 69 by the following:

a file inquiry which checks for existence of a file of a certain date, time or size

and which can return file information ... - the abstract; col. 1, lines 30-45; col. 6,

lines 17-32.

20. Matheny anticipated the independent claims 27, 50, 70 by the following:

wherein said plurality of inquiries are organized into at least one subject group,

each subject group being directed to a different piece of said state information, at

least one group of the at least one subject group having multiple instructions, and

processing each instruction of each group of the at least one group having

multiple instructions such that if a condition of the instruction is satisfied then

terminating processing of the

group, otherwise processing a next instruction of the multiple instructions within

the group and continuing until a condition of one instruction of the multiple

instructions is satisfied or until all instructions of the multiple instructions of the

group have been processed – col. 20, lines 25-43.

Response to Arguments

Applicant's arguments filed 5/31/05 have been fully considered but they are not persuasive. Applicant amended independent claims 1, 15,...to include the limitation "a central location" and "network of computer systems". Examiner finds that Matheny et al. do teach network and remote machine – col. 6, lines 43-57 and Ciccone, Jr. et al. teach the system 2 preferably employs a client-server architecture, and the monitoring node 22 periodically checks the platforms and products of the computer system 4 to determine whether they match the stored templates..., the central help facility – col. 3, lines 27-67; computer systems - col. 2, lines 39-66. Matheny et al. do teach a list of menu items containing containing a command and variables that reflect the command's current appearance. This includes status information determinative of the menu item's state – col. 1, line 30 to col. 2, line 7. As the Merriam-Webster's Collegiate Dictionary – Ten Edition defines dictionary as "a list (as of items of data or words) stored in a computer for reference (as for information retrieval or word processing)". Examiner interprets Applicant's limitation "dictionary" is equivalent to Matheny et al.'s teaching of "list of menu items"

Regarding Applicant's argument on page 22, first and second paragraphs, of the document dated 5/31/05, that Matheny fails to uncover any teaching or suggestion of such a data structure. Examiner disagrees. Examiner finds that Matheny et al. teach a menu item is another object data structure containing a command sequence. The menu item is added to a list of menu items – col. 1, lines 30-45; fig. 12. Regarding to the argument that Matheny and Ciccone fail to

uncover any discussion of implication of a technique for gathering information on

the state of a network of computer systems or not arrangement of inquiries in a

common dictionary data structure is set forth. Examiner disagrees. Matheny et

al. teach a technique for gathering information on the state of a network of

computer system and commands are queried by the menu system – col. 1, line

29 to col. 2, line 7. Ciccone, Jr. et al. further teach a system employs a

"template" concept to monitor platforms, products... The templates for the

products list all of the objects included in that product. Examples of objects (and

their attributes) are platform, files, processes, disk storage – col. 3, lines 39-67;

state check list – col. 14, lines 3-27. Regarding Applicant's argurment that if a

condition of the record is satisfied then terminating processing of the group,

Matheny et al. teach if a condition is right then terminate a process – col. 31,

lines 29-32. Ciccone, Jr. et al. further teach checking of system objects – col. 3,

lines 49-67; col. 11, line 49 to col. 12, line 65.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to LINH BLACK whose telephone number is

571-272-4106. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, JOHN BREENE can be reached on 571-272-4107. The

fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

LINH BLACK
Examiner

Art Unit 2167

August 19, 2005